

JS 44 (Rev. 12/12)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS
BRYAN BYRD

DEFENDANTS

MICHAEL T. MAYES and CELADON TRUCKING SERVICES, INC.

(b) County of Residence of First Listed Plaintiff Fort Bend County, TX
(EXCEPT IN U.S. PLAINTIFF CASES)County of Residence of First Listed Defendant Floyd County, Kentucky
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

(c) Attorneys (Firm Name, Address, and Telephone Number)
Brian L. Jensen, B.L. Jensen, L.P., 6750 West Loop South, Suite 800,
Bellaire, Texas 77401Attorneys (If Known)
Ronald L. Bair, BairHilty, P.C., 14711 Pebble Bend Drive, Houston,
Texas 77068; (713) 862-5599.

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☐ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|---------------------------------------|---------------------------------------|---|----------------------------|---------------------------------------|
| Citizen of This State | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input checked="" type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input checked="" type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input checked="" type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395i) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☐ 1 Original Proceeding ☒ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

Brief description of cause:

Action in which Plaintiff alleges he was injured in collision with Celadon Trucking Services, Inc. veh. by Mayes

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.DEMAND \$
100,000.00CHECK YES only if demanded in complaint:
JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

9-24-15

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

BRYAN BYRD,
Plaintiff

VS.

MICHAEL T. MAYES and
CELADON TRUCKING SERVICES, INC.,
Defendants

§
§
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§

CIVIL ACTION NO. _____
JURY REQUESTED

**DEFENDANTS' NOTICE OF REMOVAL
OF CIVIL ACTION**

COMES the Defendants Celadon Trucking Services, Inc. and Michael T. Mayes, (hereinafter referred to as "Defendants"), and file this Notice of Removal, pursuant to 28 U.S.C. §§ 1332, 1441 and 1446.

1. The Plaintiff, Bryan Byrd ("Plaintiff"), filed the Plaintiff's Original Petition on August 19, 2015 in the Fort Bend County District Court which is within the Houston Division of the United States District Court for the Southern District of Texas. Under 28 U.S.C. § 1446(a), removal to this Division of this District is proper.

2. In the Original Petition Plaintiff alleges that on or about July 23, 2015, Defendant Michael T. Mayes ("Mayes"), allegedly an employee of Celadon Trucking Services, Inc. ("Celadon"), acting in the course and scope of his employment, operated a vehicle in a negligent manner causing an accident in which the Plaintiff was allegedly injured. Plaintiff claims to have sustained bodily injuries and is seeking to recover (a) physical pain and mental anguish in the past, including the element of loss of enjoyment of life; (b) physical pain and mental anguish in the future,

including the element of loss of enjoyment of life; (c) physical impairment in the past, including the element of loss of enjoyment of life; (d) physical impairment in the future, including the element of loss of enjoyment of life; (e) loss of earning capacity in the past; (f) loss of earning capacity in the future; (g) medical expenses in the past; and (h) medical expenses in the future from both Defendants, and pre and post judgment interest. The Plaintiff's Original Petition alleges damages of \$100,000 or less.

3. The State Court's Docket Sheet is attached as Exhibit "A".

4. A copy of Plaintiff's Original Petition is attached hereto as Exhibit "B."

5. Citations were issued to Celadon by certified mail August 20, 2015 through National Corporate Research, Ltd., and to Mayes by certified mail August 20, 2015 through the Chairman of the Texas Transportation Commission. See Certificates of Delivery by Certified Mail and Notice of Service of Process, attached hereto as Exhibit "C."

6. On or about September 11, 2015, Defendants filed an Original Answer, a copy of which is attached hereto as Exhibit "D," and served a copy of said Answer upon counsel for the Plaintiff in this Action by facsimile transmission.

7. A list of counsel and the parties they represent is attached as Exhibit "E".

8. Plaintiff is an individual and a resident and citizen of the State of Texas.

9. Celadon is a corporation incorporated in the State of Indiana with its principal place of business in Indianapolis, Indiana.

10. Mayes is an individual and is a resident and citizen of the State of Kentucky.

11. This Notice of Removal is timely as it was filed within the 30 day time period required under 28 U.S.C. § 1446(b).

10. The Action is one which may be removed to this Court by the Defendants pursuant to 28 U.S.C. §§ 1441 and 1446, and over which this Court has original jurisdiction pursuant to 28 U.S.C. § 1332, in that diversity of citizenship exists between the Plaintiff and the Defendants hereto, and the amount in controversy exceeds \$75,000.00, exclusive of interest and costs.

11. All pleadings, process, orders, and other filings in the state court action are attached to this notice as required by 28 U.S.C. §1446(a).

12. Venue is proper in this District under 28 U.S.C. §1441(a) because the state court where the action has been pending is located within this District.

13. Defendants will promptly file a copy of this Notice of Removal with the Clerk of the state court where the action has been pending.

14. Plaintiff demanded a jury in the state court action.

15. On or about the date of this filing, Defendants served upon counsel for the Plaintiff a copy of the "Defendants' Notice of Removal of Civil Action."

WHEREFORE, the Defendants CELADON TRUCKING SERVICES, INC. and MICHAEL T. MAYES, by counsel, requests that this Court remove the action from the Fort Bend County District Court to The United States District Court for the Southern District of Texas Houston Division.

Respectfully submitted,

BAIRHILTY, P.C.

/s/Ronald L. Bair

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FBN: 6173

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**ATTORNEY FOR DEFENDANTS,
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AND MICHAEL T. MAYES**

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**ATTORNEY FOR DEFENDANT,
CELADON TRUCKING SERVICES, INC.
AND MICHAEL T. MAYES**

CERTIFICATE OF SERVICE

I hereby certify that all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system per S. Dist. Tex. Loc. R. LR5.1 on the 24th day of September, 2015. A true and correct copy of the foregoing Defendants Notice of Removal was served upon counsel of record in compliance with the Federal Rules of Civil Procedure by certified mail, return receipt requested, telephonic communications, hand delivery and/or U.S. Mail on this the 24th day of September, 2015.

/s/ Ronald L. Bair

RONALD L. BAIR